

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

AARON BREEDEN, MICHAEL PAVELKA,)
BRIAN WINOGRADOV, CHARLES WOODS,) No. 04-05104 SC
individuals, on their own behalf)
and on behalf of all others)
similarly situated,)
Plaintiffs,)
vs.)
BENCHMARK LENDING GROUP, INC., and)
DOES 1-200, inclusive,)
Defendants)

NOTICE OF CERTIFICATION OF CLASS ACTION

TO ALL PERSONS WITHIN THE FOLLOWING CLASS:

CLASS: All individuals currently or previously employed between November 12, 2000 and the present by Benchmark as Loan Officers (however defined, but whose duties included making or receiving telephone calls to/from potential loan customers).

WHY ARE YOU RECEIVING THIS NOTICE?

On November 12, 2004, four plaintiffs, Aaron Breeden, Michael Pavelka, Brian Winogradov, and Charles Woods, initiated an action against Benchmark Lending Group, Inc., entitled Breeden, et al. v. Benchmark Lending Group, Inc., Case No. C04-05104, alleging violations of state and federal labor laws. Judge Samuel Conti of the United States District Court for the Northern District of California, is presiding over this case and has certified one issue in this case as appropriate for class treatment under Rule 23 of the Federal Rules of Civil Procedure. The issue that has been certified is whether Loan Officers working at Benchmark's Santa Rosa call center were properly classified by Benchmark as "exempt" employees under California state law. If you are a member of the class as defined above, you are part of this lawsuit and will be bound by any and all judgments, rulings, or settlements unless you "opt-out." An explanation of how to opt-out is included below. **YOU MUST OPT-OUT BY SEPTEMBER 16, 2005, OR YOU WILL BECOME A MEMBER OF THE CLASS.** In the event that there is a settlement, you will have **another opportunity** to opt-out before being bound by the terms of that settlement. If you are a member

1 of the class and desire to remain a member, you do not have to
2 file any document with the court. Should you remain a member of
3 the class, you will be represented by the attorneys for the class,
4 whose names are listed below.

5 6 **THE LAWSUIT**

7 The Lawsuit alleges that Benchmark improperly classified Loan
8 Officers as exempt employees, entitling Loan Officers to be paid
9 wages and penalties for any overtime that was worked, as well as
10 compensation for any unpaid wages (including minimum wage). The
11 suit also alleges that Benchmark failed to provide meal and rest
12 breaks to Loan Officers, entitling Loan Officers to additional
13 compensation for each lunch and rest break improperly missed.
14 Finally, the plaintiffs seek damages for improper deductions that
15 were allegedly made from Loan Officers' paychecks. Benchmark
16 denies all these allegations. **Class certification has been**
17 **granted ONLY with respect to the question of whether Loan Officers**
18 **were properly classified as exempt employees.** Even if Plaintiffs
19 are successful in demonstrating that they were not, in fact,
20 exempt, no recovery will occur until plaintiffs are able to prove
21 that Benchmark owes compensation for overtime actually worked,
22 breaks actually missed, and improper deductions actually taken.
23 At this time, those questions are not being considered by the
24 court, and are not within the scope of the class certification.

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LEGAL REPRESENTATION

If you remain a member of the class without obtaining your own counsel, you will be represented by the class representatives Aaron Breeden, Michael Pavelka, Brian Winogradov, and Charles Woods, through their attorneys. Those attorneys are:

BEYERS COSTIN
Peter L. Simon
Richard C. O'Hare
Steven J. Bleasdell
Stephen Perry
200 Fourth St, Suite 400
Santa Rosa, CA 95401
Telephone: 707.547.2000
Facsimile: 707.526.2746
Web: www.beyerscostin.com

You will not have to pay class counsel any attorneys fees, costs, or expenses for their professional services, but such fees, costs, and expenses may be awarded to them by the court out of or in addition to any recovery made in the class action.

OTHER MATTERS

Please do not call the court or court clerk about this Lawsuit. You should contact your own attorney or direct any inquiries to the attorneys for the class, listed above.

This is only a summary of the Lawsuit. All pleadings and documents filed in court may be reviewed or copied in the Office of the Clerk, United States District Court, Northern District of California, located at 450 Golden Gate Avenue, San Francisco, CA. This notice has been sent merely to advise you of the pendency of the Lawsuit and your rights with respect to the class action.

WHAT TO DO

If you wish to be a part of the class for the purpose of determining whether Benchmark properly classified Loan Officers as exempt employees, you need not do anything. You may also retain separate counsel to pursue your claim individually while remaining a member of the class. You may opt-out if you do not want to participate in the action, and do not want to be bound by the decisions in this case, whether favorable or unfavorable. Should you opt-out, however, you will not share in any recovery obtained by the class if the class is successful in obtaining any such recovery.

If you do not wish to participate in this class action, check the "no" box in the attached form and return it in the envelope provided. You may also fax the form to 707.526.2746, but be sure to call to confirm receipt of your fax. **You must return the form by September 16, 2005. All requests received after that date will be ineffective, and the person sending the late request will be a member of the class and will be bound in the same way and to the same extent as other class members.**

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FRCP 23 CLASS ACTION "OPT-OUT"

I, the undersigned, have read the accompanying Notice and understand its contents.

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No

I do not want to participate in the class action in the lawsuit known as Breeden, et al. v. Benchmark lending Group, inc., United States District Court, Northern District of California, Case No. C04-05104 SC, or be bound by any decisions or participate in any recovery.

Signature

Name (printed or typed)

Address

Telephone